UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

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JENNIFER SAUNDERS,

Plaintiff,

ORDER

-against-

07-CV-2725 (SJF)

NEW YORK CITY DEPARTMENT
OF EDUCATION,

Defendant.
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FEUERSTEIN, United States District Judge.

On July 3, 2007, *pro se* plaintiff Jennifer Saunders (plaintiff) filed this employment discrimination action pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, alleging that she was discriminated against in her employment based on her age, race and sex, and retaliation. Plaintiff now moves by letter application to consolidate this action with an action pending in the Southern District of New York entitled Teachers4Action, et al. v. Bloomberg, et al., no. 08-cv-0548, in which she is one of the thirty-one (31) named plaintiffs and defendant is one of seven (7) named defendants.

DISCUSSION

Rule 42(a) of the Federal Rules of Civil Procedure provides that "[w]hen actions involving a common question of law or fact are pending before the court, * * * it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." The district court has broad discretion to determine whether consolidation is appropriate. Johnson v. Celotex Corp., 899 F.2d 1281, 1284-1285 (2d

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Cir. 1990). Although considerations of judicial economy generally favor consolidation, "[c]onsiderations of convenience and economy must yield to a paramount concern for a fair and impartial trial." Id. at 1285. In determining whether consolidation is appropriate, the court must consider:

> Whether the specific risks of prejudice and possible confusion are overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses, and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives.
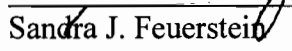
Id. (internal quotations and citations omitted).

Teachers4Action is an action brought on behalf of tenured teachers in the New York City public schools pursuant to, *inter alia*, 42 U.S.C. §§ 1981 and 1983, the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621, *et seq.*, (the ADEA), and Title VII's anti-retaliation provisions, alleging thirteen (13) causes of action for violations of the plaintiffs' First, Fifth and Fourteenth freedom of speech and association, due process and equal protection rights respectively; harassment and a hostile work environment; age discrimination; retaliation; and constructive discharge; as well as common law claims for breach of contract; breach of fiduciary duty and the duty of fair representation; aiding and abetting the breach of a fiduciary duty; negligent hiring, retention and supervision; misrepresentation, conspiracy and fraud; false confinement; and injunctive relief. Although plaintiff's retaliation claims may overlap with some of the claims asserted on her behalf in the Teachers4Action action, there is not a sufficient identity of parties, facts or claims to warrant consolidation of the two actions. Moreover, there are no Title VII claims of discrimination asserted in the Teachers4Action action, which is the

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basis of plaintiff's complaint in the instant case. Accordingly, plaintiff's application to consolidate this action with the Teachers4Action action is denied.[1]

CONCLUSION

Plaintiff's application to consolidate this action with the Teachers4Action action pending in the Southern District of New York is denied.

SO ORDERED.

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Sandra J. Feuerstein
United States District Judge

Dated: May 2, 2008
Central Islip, New York

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[1] Plaintiff is advised that pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, she may seek to stipulate with defendant or to move this Court to voluntarily dismiss this action and proceed solely with the Teachers4Action action.